

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

KLEEN PRODUCTS LLC *et al.* individually  
and on behalf of all those similarly situated,

Plaintiffs,

v.

INTERNATIONAL PAPER COMPANY,  
*et al.*,

Defendants.

Civil Case No. 1:10-cv-05711

Hon. Harry D. Leinenweber

**PUBLIC VERSION—REDACTED**

**DEFENDANT TEMPLE-INLAND INC.'S RULE 56.1 STATEMENT  
OF MATERIAL FACTS IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT**

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Pursuant to Local Rule 56.1(3), Defendant Temple-Inland Inc. (“Temple-Inland”) hereby submits its individual statement of material facts as to which there is no genuine issue and that entitle Temple-Inland to judgment as a matter of law.

A description of the other parties to this litigation is set forth in Defendants’ Joint Local Rule 56.1 Statement of Material Facts As To Which There is No Genuine Issue (“Joint Statement”) at ¶¶ 1-3 and in each of the other Defendants’ Rule 56.1 Statements of Material Fact, filed concurrently herewith. The facts supporting venue and jurisdiction in this Court are set forth in the Joint Statement at ¶¶ 4-5.

## **A. BACKGROUND**

### **1. Corporate Structure**

1. At all times between February 15, 2004 and November 8, 2010 (the “Class Period”), Temple-Inland was a publicly-traded Delaware corporation with its principal place of business in Austin, Texas. Ex. 1 (Temple-Inland 00079045-174) at 060-62, 076-77 (2003 10-K); Ex. 2 (Temple-Inland 00579913-80006) at 916-17, 932-33 (2010 10-K).

### **2. Temple-Inland’s Corrugating Packaging Business**

2. During the Class Period, Temple-Inland manufactured and sold containerboard (linerboard, corrugating medium, and white-top linerboard) and corrugated packaging products (boxes and sheets).<sup>1</sup> Ex. 1 (Temple-Inland 00079045-174) at 060-61, 081-83 (2003 10-K); Ex. 2 (Temple-Inland 00579913-80006) at 916-17, 941-43 (2010 10-K). Temple-Inland operated the following containerboard mills and corrugating facilities in the United States:

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<sup>1</sup> The remainder of Temple-Inland’s Rule 56.1 Statement of Material Facts addresses the Corrugated Packaging segment of Temple-Inland’s business (*i.e.*, references to “Temple-Inland” are to the Corrugated Packaging segment, unless specifically noted otherwise).

<b>Table 1: TEMPLE-INLAND U.S. CORRUGATED PACKAGING FACILITIES</b>			
<b>Mills</b>	<b>Box and Sheet Plants</b>		
Ontario, CA	Phoenix, AZ (Box Plant)*	Carol Stream, IL (Box Plant)	Buffalo, NY (Sheet Plant)
Rome, GA	Fort Smith, AR (Box Plant)	Chicago, IL (Box Plant)	Scotia, NY (Sheet Plant)
Orange, TX	Fort Smith, AR (Sheet Plant)	Chicago, IL (Sheet Plant)	Utica, NY (Sheet Plant)
Bogalusa, LA	Antioch, CA (Box Plant)*	Elgin, IL (Box Plant)	Raleigh, NC (Box Plant)*
Maysville, KY	Bell, CA (Box Plant)	Elgin, IL (Box Plant)	Madison, Ohio (Box Plant)
New Johnsonville, TN	Buena Park, California (Box Plant)	Crawfordsville, Indiana (Box Plant)	Marion, OH (Box Plant)
Newport, IN	City of Industry, CA (Sheet Feeder)*	Evansville, IN (Box Plant)*	Middletown, OH (Box Plant)
	El Centro, California (Box Plant)	Indianapolis, IN (Box Plant)	Streetsboro, OH (Box Plant)
	Gilroy, CA (Box Plant)	Mishawaka, IN (Box Plant)*	Biglerville, PA (Box Plant)
	Gilroy, CA (Sheet Plant)	St. Anthony, IN (Sheet Plant)*	Hazleton, PA (Box Plant)
	Ontario, CA (Box Plant)*	Tipton, IN (Sheet Plant)	Kennetts Square, PA (Sheet Plant)
	Santa Fe Springs, CA (Box Plant)	Garden City, KS (Box Plant)	Littlestown, PA (Sheet Plant)
	Santa Fe Springs, CA (Box Plant)	Kansas City, KS (Box Plant)	Scranton, PA (Box Plant)
	Santa Fe Springs, CA (Sheet Plant)*	Louisville, KY (Box Plant)*	Lexington, SC (Box Plant)
	Tracy, CA (Box Plant)	Louisville, KY (Box Plant)	Rock Hill, SC (Box Plant)*
	Union City, CA (Sheet Plant)	Bogalusa, LA (Box Plant)	Ashland City, TN (Sheet Plant)
	Wheat Ridge, CO (Box Plant)	Minden, LA (Box Plant)	Elizabethton, TN (Sheet Plant)

\* These corrugating facilities were closed or sold during the Class Period. *See* Ex. 3 (Temple-Inland 00076934-7063) at 950, 957-59 (2004 10-K); Ex. 4 (Temple-Inland 00068027-165) at 048, 058-60 (2005 10-K); Ex. 5 (Temple-Inland 00067842-987) at 864, 874-76, 885 (2006 10-K); Ex. 6 (Temple-Inland 00073309-418) at 341-43 (2007 10-K); Ex. 7 (Temple-Inland 00337530-630) at 553-55, 568 (2008 10-K); Ex. 8 (Temple-Inland 00066084-187) at 107-09 (2009 10-K); Ex. 9 (Temple-Inland 00081050-90) at 060 (Q3 2010 10-Q).

	Harington, DE (Box Plant)*	Minneapolis, MN (Box Plant)	Dallas, TX (Box Plant)*
	Newark, DE (Box Plant)*	St. Louis, MO (Box Plant)	Dallas, TX (Box Plant)
	Orlando, FL (Box Plant)	St. Louis, MO (Sheet Plant)	Edinburg, TX (Box Plant)
	Tampa, FL (Box Plant)	Milltown, NJ (Sheet Plant)	San Antonio, TX (Box Plant)
	Atlanta, GA (Box Plant)*	Spotswood, NJ (Box Plant)	San Antonio, TX (Sheet Plant)
	Rome, GA (Box Plant)*	Binghamton, NY (Box Plant)	Petersburg, VA (Box Plant)

Ex. 1 (Temple-Inland 00079045-174) at 070-72 (2003 10-K). The Newport mill manufactured both containerboard and light-weight gypsum facing paper (a non-containerboard product), and was operated initially through a joint venture called Premier Boxboard Limited LLC. *Id.* at 063, 070-72. In July 2008, Temple-Inland acquired full ownership of Newport. Ex. 7 (Temple-Inland 00337530-630) at 544, 596 (2008 10-K).

3. The majority of Temple-Inland's Corrugated Packaging revenue was derived from selling boxes. Ex. 3 (Temple-Inland 00076934-7063) at 967-69 (2004 10-K); Ex. 6 (Temple-Inland 00073309-418) at 353-55 (2007 10-K); Ex. 8 (Temple-Inland 00066084-187) at 120-21 (2009 10-K). Containerboard was sold externally [REDACTED] Ex. 10 (Temple-Inland 30(b)(6) (Baker) Tr.) at 29; *see also id.* at 111-12, 114-17, 170-72; Ex. 11 (Zimbelman Tr.) at 65-66, 77-79. [REDACTED]

[REDACTED] Ex. 12 (Maley Tr.) at 23-24.

4. Temple-Inland used export markets as a [REDACTED]  
[REDACTED]  
[REDACTED]. Ex. 10 (Temple-Inland 30(b)(6) (Baker) Tr.) at 169-75; Ex. 11 (Zimbelman Tr.) at 238-39. Temple-Inland [REDACTED]  
[REDACTED]

Ex. 11 (Zimbelman Tr.) at 139-41.

See Ex. 13 (Baker (Ind.) Ex. 48); Ex. 14 (Baker

(Ind.) Tr.) at 283-84.

5. Temple-Inland's SEC Form 10-Ks report the following containerboard production (tons, aggregating production at the Newport mill; *see* ¶ 22, *infra*), and Temple-Inland business records report the following total external containerboard sales (aggregated and itemized by domestic and export sales) for each year 2004 through 2010:

<b>Table 2: TEMPLE-INLAND CONTAINERBOARD PRODUCTION AND EXTERNAL SALES 2004 – 2010</b>				
<b><u>Year</u></b>	<b><u>Total Containerboard Production (tons)</u></b>	<b><u>Total Containerboard Sales (tons)</u></b>	<b><u>Total Domestic Containerboard Sales (tons)</u></b>	<b><u>Total Export Containerboard Sales (tons)</u></b>
2004	3,605,627			
2005	3,710,529			
2006	3,848,348			
2007	3,915,805			
2008	3,887,201			
2009	3,906,050			
2010	4,035,497			

Ex. 3 (Temple-Inland 00076934-7063) at 957 (2004 10-K); Ex. 4 (Temple-Inland 00068027-165) at 058 (2005 10-K); Ex. 5 (Temple-Inland 00067842-987) at 874 (2006 10-K); Ex. 6 (Temple-Inland 00073309-418) at 341 (2007 10-K); Ex. 7 (Temple-Inland 00337530-630) at 553-554 (2008 10-K); Ex. 8 (Temple-Inland 00066084-187) at 107 (2009 10-K); Ex. 2 (Temple-Inland 00579913-80006) at 927 (2010 10-K); Ex. 15 (Baker (Ind.) Ex. 46) at 2-7 (Applicable rows: "Domestic Board Shipments" and "Export Board Shipments"); Ex. 16 (Temple-Inland 00357674) (Applicable rows: "Domestic Board Shipments" and "Export Board Shipments").

6. Temple-Inland was a net purchaser of containerboard during the Class Period, *i.e.*, Temple-Inland's containerboard purchases were greater than its external containerboard sales, including exports:

<b>Table 3: TEMPLE-INLAND CONTAINERBOARD PRODUCTION AND EXTERNAL CONTAINERBOARD PURCHASES 2004 – 2010</b>		
<b>Year</b>	<b>Total Containerboard Purchases (tons)</b>	<b>Total Containerboard Sales (tons)</b>
2004	██████████	██████████
2005	██████████	██████████
2006	██████████	██████████
2007	██████████	██████████
2008	██████████	██████████
2009	██████████	██████████
2010	██████████	██████████
<b>TOTAL</b>	██████████	██████████

Ex. 17 (Temple-Inland 00006629) (Tab: "MB04GRPH"; Applicable rows: "Purchases-Rock Tenn", "Purchases-Other", and "Premier Boxboard"); Ex. 18 (Baker (Ind.) Ex. 47) at 4-9 (Applicable Rows: "Purchases-Medium", "Purchases-Liner", "International Purchases", and "Premier Boxboard"; Ex. 15 (Baker (Ind.) Ex. 46) at 2-7 (Applicable rows: "Domestic Board Shipments" and "Export Board Shipments"); Ex. 16 (Temple-Inland 00357674) (Applicable rows: "Domestic Board Shipments" and "Export Board Shipments").

### 3. Packaging Company Acquisitions

7. In 2001 and 2002, Temple-Inland spent approximately \$1 billion acquiring all or part of five corrugated packaging companies: Chesapeake Corporation, Elgin Corrugated Box, and ComPro Packaging in 2001, which added 13 corrugating facilities to Temple-Inland's box plant system; and Gaylord Container and Mack Packaging in 2002, which added 22 more corrugating facilities to Temple-Inland's box plant system and two containerboard mills. Ex. 19

(Temple-Inland 01590482-571) at 501, 526 (2001 10-K); Ex. 20 (Temple-Inland 00080199-407) at 207, 237, 294-97 (2002 10-K).

8. After completing the Gaylord Container and Mack Packaging acquisitions in 2002, Temple-Inland was 104% vertically integrated, meaning that “our box converting plants’ demand for containerboard now exceeds the capacity of our mills.” Ex. 21 (Temple-Inland 01566002-101) at 010 (2002 Annual Rep.). Once fully integrated, the mills could “run full schedules, eliminating downtime,” lowering production costs and reducing the need to rely on spot and export markets. *Id.*; *see also* Ex. 1 (Temple-Inland 00079045-174) at 049 (2003 Annual Rep.); Ex. 3 (Temple-Inland 00076934-7063) at 966 (2004 10-K); Ex. 4 (Temple-Inland 00068027-165) at 068 (2005 10-K); Ex. 5 (Temple-Inland 00067842-987) at 885 (2006 10-K).

## **B. TEMPLE-INLAND’S STRATEGY AND PERFORMANCE**

### **1. Temple-Inland’s Five-Step Mantra**

9. Temple-Inland did [REDACTED] during the early 2000s; its [REDACTED] [REDACTED] Ex. 10 (Temple-Inland 30(b)(6) (Baker) Tr.) at 96-98. Temple-Inland COO and President Pat Maley testified that the company was in [REDACTED] (including through recent acquisitions, *see* ¶ 7, *supra*), and [REDACTED] [REDACTED] Ex. 12 (Maley Tr.) at 48-50.

10. Becoming fully integrated was the first step in a five-step “mantra” that Temple-Inland adopted in 2003 to improve the company’s financial performance and ROI: [REDACTED] [REDACTED] [REDACTED]. Ex. 22 (Temple-Inland 00408128-48) at 129-33; Ex. 23 (Temple-Inland 00211247-64) at 248-51; Ex. 24 (Temple-Inland 00462524-61) at 526-42; Ex. 25 (Temple-Inland

00262857-85) at Slides 6-13; Ex. 10 (Temple-Inland 30(b)(6) (Baker) Tr.) at 96-98; Ex. 12 (Maley Tr.) at 65-66, 260-62.

**a) Achieve and Maintain Full Integration**

11. Temple-Inland remained above or near 100% vertical integration during the Class Period and was “the most integrated producer of corrugated containers.” Ex. 26 (Temple-Inland 00183514-37) at 525 (Presn., April 2007); *see also* Ex. 27 (Temple-Inland 01322775-795) at 780 (Annual Shareholders Mtg. Presn., May 7, 2004); Ex. 28 (Temple-Inland 00252684-824) at 779 (Strategy Review, February 3, 2005); Ex. 29 (Temple-Inland 00287131-150) at 136 (Presn., June 23-24, 2008); Ex. 30 (Temple-Inland 01335540-573) at 547 (Presn., Dec. 7, 2009); Ex. 31 (Temple-Inland 00094210-245) at 217 (Presn., Sept. 23, 2010).

**b) Fill the Mills—Sell it All**

12. “Sell it all” meant “sell[ing] to our capacity,” [REDACTED]. Ex. 32 (Temple-Inland 00580576-603) at 584 (P. Maley BOD Presn. and Speaker Notes, Feb. 2007); *see also* Ex. 33 (Maley Ex. 37) at 1.

**c) Lowest Cost**

13. In its 2003 Annual Report, Temple-Inland explained that being fully integrated allowed the company “to run the mills full and reduce mill costs[]” through “more consistent operations, and [the] opportunity to spread fixed costs more efficiently.” Ex. 1 (Temple-Inland 00079045-174) at 049 (2003 Annual Rep.); *see also* Ex. 32 (Temple-Inland 00580576-603) at 584 (P. Maley BOD Presn. and Speaker Notes, Feb. 2007) [REDACTED]. To minimize costs, Temple-Inland pushed mills to run beyond their “design” speeds at the [REDACTED] Ex.

34 (Temple-Inland 01595309-325) at 311-312 (Rome Mill Presn., Sept. 2007). The actual production rates achieved by Temple-Inland's mills during the Class Period exceeded their design speeds. *Id.* at 322.

14. It was inefficient and "very expensive" for Temple-Inland to carry more containerboard inventory than its box plants and customers needed. Ex. 35 (Norton Tr.) at 313-15. In January 2004, Temple-Inland implemented [REDACTED]  
[REDACTED]  
[REDACTED] with respect to supply chain management. Ex. 36 (Temple-Inland 00452163-204) at 165-66, 168 (Sales-Marketing Update, Aug. 24, 2004 (excerpt)). By August, Temple-Inland had saved \$ [REDACTED] million through MOPAC. *Id.* at 203.

15. Temple-Inland invested more than [REDACTED] million between 2005 and 2010 to improve mill performance. Ex. 37 (Temple-Inland 00977573) (Tab: "DIVISION SUMMARY"; row: "Total Capital 2005"); Ex. 38 (Temple-Inland 00977576) ("DIVISION SUMMARY"; "Total Capital 2006"); Ex. 39 (Temple-Inland 00403905) ("DIVISION SUMMARY"; "Total Capital 2007"); Ex. 40 (Temple-Inland 00977723) ("DIVISION SUMMARY"; "Total Capital 2008"); Ex. 41 (Temple-Inland 00120519) ("DIVISION SUMMARY"; "Total Capital 2009"). Between 2003 and 2006, mill costs [REDACTED] and production [REDACTED] which [REDACTED]  
[REDACTED] Ex. 32 (Temple-Inland 00580576-603) at 580-581 (P. Maley BOD Presn. and Speaker Notes, Feb. 2007).

**d) Fix the Mix**

16. Once Temple-Inland was selling to "capacity," it sought to [REDACTED]  
[REDACTED] *Id.* at 584. Investments in new box making

equipment and technology lowered production costs (*see* ¶¶ 33-39, *infra*) and allowed Temple-Inland to [REDACTED]

[REDACTED] Ex. 25 (Temple-Inland 00262857-85) at Slide 11 (D. Simons Presn. Speaker Notes, Sept. 15, 2010). *See also* Ex. 12 (Maley Tr.) at 260-62.

**e) Grow the Business**

17. “Grow the business” meant “growing profitable market share” in the box industry [REDACTED]  
[REDACTED] Ex. 29 (Temple-Inland 00287131-150) at 135 (Presn., June 23-24, 2008). Between 2003 and 2007, Temple-Inland’s box shipments grew by [REDACTED]% against an industry average of [REDACTED]%. *Id.* at 139; *see* ¶ 25, *infra* (annual box shipments and production 2003-2010).

18. Between Q3 2007 and February 2008, Temple-Inland [REDACTED]  
[REDACTED]  
[REDACTED]. Ex. 42 (Simons Tr.) at 109-13, 166-69; Ex. 43 (Temple-Inland 00186097-102) ([REDACTED]  
[REDACTED]); Ex. 44 (Temple-Inland 01647771-74) ([REDACTED]  
[REDACTED]); Ex. 45 (Temple-Inland 01633531-537) [REDACTED]  
[REDACTED]. [REDACTED]  
[REDACTED]  
[REDACTED]. Ex. 42 (Simons Tr.) at 178-79 ([REDACTED]). [REDACTED]  
[REDACTED]  
[REDACTED]. *Id.* at 73-74 ([REDACTED]), 82-83 (testifying on Simons Ex. 3 (IP1357845) ([REDACTED])

\_\_\_\_\_), 175-77 (\_\_\_\_); Ex. 46 (Simons Ex. 3 (IP1357845)). \_\_\_\_\_  
 \_\_\_\_\_ Ex. 42 (Simons Tr.) at 76-79, 96-100;  
 Ex. 47 (Simons Ex. 8 (TLG027070)).

## 2. Earnings and Financial Returns

19. Temple-Inland's financial returns improved during the Class Period; in particular, Temple-Inland's ROI grew from less than 1% in 2003 more than 16% in 2010:

<b>Table 4: TEMPLE-INLAND'S FINANCIAL PERFORMANCE 2003 – 2010</b>								
	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
<b>Revenues (millions)</b>	\$2,700	\$2,736	\$2,819	\$2,977	\$3,044	\$3,190	\$3,001	\$3,153
<b>Operating Income (millions)</b>	\$18	\$96	\$120	\$255	\$287	\$225	\$347	\$333
<b>ROI (%)</b>	0.8%	4.7%	5.6%	12.5%	14.3%	11.3%	16.5%	16.5%

Ex. 4 (Temple-Inland 00068027-165) at 070 (2005 10-K); Ex. 7 (Temple-Inland 00337530-630) at 567 (2008 10-K); Ex. 2 (Temple-Inland 00579913-80006) at 942 (2010 10-K).

20. In 2009, Temple-Inland posted \_\_\_\_\_  
 \_\_\_\_\_ Ex. 48 (Temple-Inland 01332399-417) at 401 (Q4 2009 Earnings Call Tr.).  
 Approximately \_\_\_\_\_  
 \_\_\_\_\_ *Id.* The other two-  
 thirds \_\_\_\_\_  
 \_\_\_\_\_ *Id.*

## C. TEMPLE-INLAND'S PRODUCTION AND CAPACITY

### 1. Containerboard Production and Capacity

21. Temple-Inland did not close, shutter, or indefinitely idle any of its containerboard mills during the Class Period. Ex. 12 (Maley Tr.) at 158-60.

22. Temple-Inland's SEC Form 10-Ks report the following containerboard production (tons) by each mill during each year between 2003 and 2010:

<b>TABLE 5: TEMPLE-INLAND CONTAINERBOARD PRODUCTION (2003-2010)</b>								
<b>Mill</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
Ontario	337,926	338,605	343,243	317,665	334,479	308,908	337,100	354,939
Rome	744,439	728,993	812,865	871,095	834,069	863,493	757,566	811,006
Orange	621,255	677,760	633,164	711,322	725,546	681,809	765,471	788,755
Bogalusa	806,888	855,860	857,276	872,700	916,021	860,001	861,879	859,883
Maysville	392,699	424,704	430,336	446,140	455,102	517,593	506,361	495,993
New Johnsonville	287,591	315,996	336,589	343,572	349,706	363,682	362,940	367,484
Newport	261,983	263,709	297,056	285,854	300,882	291,715	314,733	357,437
<b>TOTAL</b>	<b>3,452,781</b>	<b>3,605,627</b>	<b>3,710,529</b>	<b>3,848,348</b>	<b>3,915,805</b>	<b>3,887,201</b>	<b>3,906,050</b>	<b>4,035,497</b>
(less Newport)	3,190,798	3,341,918	3,413,473	3,562,494	3,614,923	3,595,486	3,591,317	3,678,060

Ex. 1 (Temple-Inland 00079045-174) at 70 (2003 10-K); Ex. 3 (Temple-Inland 00076934-7063) at 957 (2004 10-K); Ex. 4 (Temple-Inland 00068027-165) at 058 (2005 10-K); Ex. 5 (Temple-Inland 00067842-987) at 874 (2006 10-K); Ex. 6 (Temple-Inland 00073309-418) at 341 (2007 10-K); Ex. 7 (Temple-Inland 00337530-630) at 553-54 (2008 10-K); Ex. 8 (Temple-Inland 00066084-187) at 107 (2009 10-K); Ex. 2 (Temple-Inland 00579913-80006) at 927 (2010 10-K). The Newport mill's reported production includes "the full ... production of this facility," *i.e.*, total production of both containerboard and gypsum-facing paper. Ex. 7 (Temple-Inland 00337530-630) at 554 (2008 10-K). Excluding the Newport mill, Temple-Inland's total containerboard production increased 14.2% between 2003 and 2010, from 3,190,798 tons in 2003 to 3,678,060 tons in 2010. *Id.*<sup>2</sup>

23. Temple-Inland's SEC Form 10-Ks report the following capacity (tons) for each mill during each year between 2003 and 2010:

<sup>2</sup> All percent changes noted herein are expressed as percent-log changes, *e.g.*,  $\ln(3,678,060/3,190,798) \times 100 = 14.2$ .

<b>TABLE 6: TEMPLE-INLAND CONTAINERBOARD CAPACITY 2003-2010 (FORM 10-Ks)</b>								
	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
Bogalusa	859,200	866,360	877,100	877,100	915,000	912,500	895,000	895,000
Maysville	402,100	425,980	427,785	427,785	454,000	535,050	524,900	524,900
New Johnsonville	270,600	321,290	335,730	335,730	348,000	378,225	371,050	372,860
Newport	246,000	278,225	305,100	305,100	308,000	339,480	340,280	356,570
Ontario	343,700	335,730	335,730	335,730	336,000	332,100	340,280	360,190
Orange	599,700	681,990	730,320	730,320	730,000	757,375	769,700	778,650
Rome	778,700	758,960	823,400	823,400	837,000	894,250	877,100	877,100
<b>TOTAL</b>	<b>3,500,000</b>	<b>3,668,535</b>	<b>3,835,165</b>	<b>3,835,165</b>	<b>3,928,000</b>	<b>4,148,980</b>	<b>4,118,310</b>	<b>4,165,270</b>
(less Newport)	3,254,000	3,390,310	3,530,065	3,530,065	3,620,000	3,809,500	3,778,030	3,808,700

Ex. 1 (Temple-Inland 00079045-174) at 070 (2003 10-K); Ex. 3 (Temple-Inland 00076934-7063) at 957 (2004 10-K); Ex. 4 (Temple-Inland 00068027-165) at 058 (2005 10-K); Ex. 5 (Temple-Inland 00067842-987) at 874 (2006 10-K); Ex. 6 (Temple-Inland 00073309-418) at 341 (2007 10-K); Ex. 7 (Temple-Inland 00337530-630) at 553-54 (2008 10-K); Ex. 8 (Temple-Inland 00066084-187) at 107 (2009 10-K); Ex. 2 (Temple-Inland 00579913-80006) at 927 (2010 10-K). Again, the Newport mill's reported capacity includes "the full capacity ... of this facility," *i.e.*, total capacity for both containerboard and gypsum-facing paper. Ex. 7 (Temple-Inland 00337530-630) at 554 (2008 10-K). Excluding Newport, Temple-Inland's total capacity as reported in its annual Form 10-Ks increased by 15.7% between 2003 and 2010, from 3,254,000 tons in 2003 to 3,808,700 tons in 2010.

24. For his analysis of Temple-Inland's containerboard capacity during the Class Period, Plaintiffs' expert economist Dr. J. Douglas Zona obtained mill level capacity data from RISI, a third-party industry consultant. That data reports the following containerboard capacity (tons) for each of Temple-Inland's mills during each year between 2003 and 2010:

<b>TABLE 7: TEMPLE-INLAND CONTAINERBOARD CAPACITY 2003-2010 (RISI)</b>								
	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
Bogalusa								
Maysville								
New Johnsonville								
Newport								
Ontario								
Orange								
Rome								
<b>TOTAL</b>								

Ex. 49 (Zona Ex. 7 (NAPKGCAP2014\_Kirk.xlsx)) at 7, 8, 10. Excluding the Newport mill, Temple-Inland's total containerboard capacity as reported by RISI increased by % between 2003 and 2010, from tons in 2003 to tons in 2010. *Id.* Including Newport once Temple-Inland acquired the mill in 2008 (*see* ¶ 2, *supra*), total capacity increased by % between 2003 and 2010, from tons in 2003 to tons in 2010. *Id.*

## 2. Corrugated Box Production

25. Temple-Inland *increased* total box shipments despite closing or selling 16 sheet and box plants during the Class Period (*see* ¶ 2, *supra*):

<b>TABLE 8: TEMPLE-INLAND BOX SHIPMENTS (TONS) 2003-2010</b>								
	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
Tons Shipped								
Tons Per Day								

Ex. 50 (Temple-Inland 01002130) (Tab: "P&L," Row: "Total Tons Shipped"); Ex. 12 (Maley Tr.) at 218-222 & Ex. 51 (Maley Ex. 28 (Temple-Inland 00305590-91)) at 5 (Tons Per Day).

## 3. Downtime and Slowback

26. Temple-Inland's only market downtime during the Class Period occurred in Q4 2008 (108,000 tons) and 2009 (40,690 tons)—less than 3% and 2% of its total production in those

years. Ex. 7 (Temple-Inland 00337530-630) at 566-68 (2008 10-K); Ex. 15 (Baker (Ind.) Ex. 46) at 2-7 (Applicable Row: “Market Downtime”); Ex. 10 (Temple-Inland 30(b)(6) (Baker) Tr.) at 216; Ex. 12 (Maley Tr.) at 159-60; *supra* ¶ 22 (annual mill production totals). Temple-Inland’s market downtime occurred during with The Great Recession, when Temple-Inland “experienced a significant decline in demand for ... corrugated packaging[.]” Ex. 52 (Temple-Inland 01328943-55) at 944 (Quarterly Earnings Call Tr., Oct. 28, 2008); *see also* Ex. 12 (Maley Tr.) at 159-60. [REDACTED] [REDACTED]. *Id.* at 171.

27. An internal Georgia-Pacific presentation notes [REDACTED] [REDACTED] [REDACTED]. Ex. 53 (GP-KLEEN00387869-71) at 070 (per chart). A Containerboard Market Analysis prepared by IP in October 2009 notes that [REDACTED] [REDACTED] [REDACTED]. Ex. 54 (Harris Ex. 29 (IP1034902-982)) at 933.

28. Temple-Inland did not employ [REDACTED] [REDACTED]. Ex. 10 (Temple-Inland 30(b)(6) (Baker) Tr.) at 220-23. Subject to the availability of wood fiber and other inputs, Temple-Inland pushed its mills [REDACTED] [REDACTED]. *Id.*

29. Some maintenance-related downtime was necessary to keep paper machines running properly. Ex. 35 (Norton Tr.) at 211-12. Temple-Inland took maintenance-related downtime during the Class Period for annual mill outages, [REDACTED] [REDACTED]. Ex. 10 (Temple-Inland 30(b)(6) (Baker) Tr.) at 213-15. In between annual outages, the paper machines were periodically taken offline for shorter periods to [REDACTED] [REDACTED]



savings of [REDACTED] million.<sup>3</sup> Ex. 58 (Temple-Inland 00595760-827) at 786-87 (Strategy Review, Feb. 5, 2004).

32. Customers served by box plants slated for closure were transferred to nearby facilities. *E.g.*, Ex. 59 (Temple-Inland 00526701) [REDACTED]  
[REDACTED]  
[REDACTED]; Ex. 60 (Temple-Inland 00348971).

### 5. Box Plant Transformation I

33. Temple-Inland's box plant strategy became known as [REDACTED]  
a multiyear initiative to produce *more* boxes at lower costs [REDACTED]  
[REDACTED]. Ex. 12 (Maley Tr.) at 145-46; Ex. 61 (Temple-Inland 00151027-1042) at 037-39; Ex. 62 (Temple-Inland 00080081-89) at 84 (August 2005 Box Plant Capital Outlook Presn.); Ex. 63 (Temple-Inland 01312589-598) at 590 (September 2006 Capital Plan Presn.).

34. COO and President Pat Maley testified that the "theory" behind Temple-Inland's Box Plant Transformation strategy

[REDACTED]

Ex. 12 (Maley Tr.) at 145. Similarly, Temple-Inland's 30(b)(6) witness Barry Baker explained Temple-Inland's Box Plant Transformation strategy during the Class Period as follows:

[REDACTED]

<sup>3</sup> In September 2002, prior to the Class Period, Temple-Inland closed the high-cost Gaylord Antioch, CA mill. Ex. 20 (Temple-Inland 00080199-407) at 207, 211 (2002 10-K).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Ex. 10 (Temple-Inland 30(b)(6) (Baker) Tr.) at 183-84.

35. The “cornerstone” of [REDACTED] was investment in new technology, [REDACTED]. Ex. 64 (Temple-Inland 01473561-62) at 562; Ex. 65 (“Evolution of Mitsubishi ‘EVOL’ Corrugated Board Box Making Machine,” Mitsubishi Heavy Industries Technical Review, Vol. 46, No. 1 (March 2009), <http://tinyurl.com/j4rev44>); Ex. 62 (Temple-Inland 00080081-89) at 87-89 (Aug. 2005 Box Plant Capital Outlook Presn.); Ex. 32 (Temple-Inland 00580576-603) at 590-94 (P. Maley BOD Presn. and Speaker Notes, Feb. 2007); Ex. 66 (Vesci Ex. 50 (Temple-Inland 00161939-92)) at 959-64. [REDACTED]

[REDACTED]. Ex. 32 (Temple-Inland 00580576-603) at 588-96 (P. Maley BOD Presn. and Speaker Notes, Feb. 2007); Ex. 67 (Temple-Inland 00212262-286) at 283-86 (Corrugated Packaging 2007 Budget Presn.). The company believed that its strategy would [REDACTED]

[REDACTED]

[REDACTED] Ex. 32 (Temple-Inland 00580576-603) at 592-93 (P. Maley BOD Presn. and Speaker Notes, Feb. 2007).

36. In addition to investing in [REDACTED], Temple-Inland [REDACTED] [REDACTED]. Ex. 66 (Vesci Ex. 50 (Temple-Inland 00161939-92)) at 965-79. Temple-Inland also renovated box plants [REDACTED] [REDACTED]. *Id.* at 983-88.

37. In February 2007, President and COO Pat Maley reported to Temple-Inland's Board of Directors that [REDACTED] [REDACTED] [REDACTED] Ex. 32 (Temple-Inland 00580576-603) at 583 (P. Maley BOD Presn. and Speaker Notes, Feb. 2007); Ex. 24 (Temple-Inland 00462524-561) at 531-32 (Southeast Regional Sales Meeting Presn., Dec. 5, 2007) (summarizing [REDACTED] [REDACTED]).

38. Between 2005 and 2010, Temple-Inland made [REDACTED] million in total capital investments pursuant to [REDACTED], resulting in [REDACTED] [REDACTED]. Ex. 68 (Temple-Inland 01330829-30); Ex. 69 (Temple-Inland 01330831) (Tab: "Transformation 1 Invest Summary"). CEO Doyle Simons summarized the results of [REDACTED] [REDACTED] as follows:

[REDACTED]



Ex. 70 (Temple-Inland 00263002-008) at 004 (D. Simons BOD Mtg. Notes, May 7, 2010).

## **6. Box Plant Transformation II**

39. Based on the success of [REDACTED] in February 2010 Temple-Inland's Board of Directors approved [REDACTED], which would [REDACTED] [REDACTED] *Id.* Temple-Inland planned to invest [REDACTED] million in new equipment and facility upgrades and incur one-time costs of [REDACTED] million. *Id.*; Ex. 71 (Temple-Inland 01624154-160) at 156 (BOD Mtg. Minutes, November 4-5, 2010).

40. Temple-Inland also began building a new [REDACTED] box plant in Aurora, IL. Ex. 72 (Temple-Inland 00151571-94) at 590 (Pod Scopes, Oct. 31, 2009). The Aurora box plant began producing boxes in August 2011. Ex. 73 (PPW\_3332\_00001-15) at 12.

## **D. TEMPLE-INLAND'S PRICING & COMPETITION**

### **1. Containerboard**

41. Between 1999 and 2003, before the Class Period, Temple-Inland announced at least five containerboard price increases, with effective dates of February 1999, July 1999, February 2000, June 2002, and April 2003. Ex. 74 (PPW990118\_00001-12) at 005-06; Ex. 75 (PPW990111\_00001-10) at 001, 006; Ex. 76 (PPW990607\_00001-10) at 003; Ex. 77 (PPW000117\_00001-10) at 005-06; Ex. 78 (PPW2417\_00001-11) at 001, 004; Ex. 79 (PPW2512\_00001-12) at 001, 004-05. Of these, Temple-Inland was among the first producers to announce the June 2002 price increase. Ex. 78 (PPW2417\_00001-11) at 001, 004.

42. During the Class Period, Temple-Inland announced fifteen containerboard price increases, but was never first to announce. Ex. 80 (Pl. Am. Omnibus Resp. to Defs. Discovery Req. (February 5, 2015)) at 28-29 (Table of Defendants' price announcements)). At least eight of those announcements were made more than a week after the first announcement:

<b><u>Table 9: TEMPLE-INLAND CONTAINERBOARD ANNOUNCEMENT DATES</u></b>			
<b><u>Effective Increase Date</u></b>	<b><u>First Price Announcement Date</u></b>	<b><u>Temple-Inland Announcement Date</u></b>	<b><u>Temple-Inland Announcement Lag</u></b>
February/March 2004	January 5, 2004	January 19, 2004	14 Days
June 2004	April 8, 2004	April 22, 2004	14 Days
March/April 2005	February 14, 2005	February 25, 2005	11 Days
March/April 2006	February 10, 2006	By February 20, 2006	10 Days
January 2007	October 26, 2006	December 11, 2006	46 Days
April/May 2007	March 27, 2007	April 30, 2007	34 Days
August 2007	June 22, 2007	July 5, 2007	13 Days
January 2010	November 23, 2009	December 1, 2009	8 Days

*Id.* And five of the announced price increases were for an amount different than a competitor's announced price increase:

<b><u>Table 10: TEMPLE-INLAND CONTAINERBOARD ANNOUNCEMENT AMOUNTS</u></b>		
<b><u>Effective Increase Date</u></b>	<b><u>Temple-Inland Announcement</u></b>	<b><u>Other Manufacturers' Announcement</u></b>
February/March 2004	\$50/ton	\$40/ton (Weyerhaeuser, Smurfit-Stone)
October 2005	\$30/ton	\$40/ton (Norampac)
January 2007	\$40/ton	\$40/ton (east) and \$50/ton (west) (Georgia-Pacific)
August 2007	\$40/ton (east) and \$50/ton (west)	\$40/ton (Smurfit-Stone, International Paper, Norampac)
January 2010	\$50/ton (east) and \$70/ton (west)	\$50/ton (Norampac)

*Id.*

43. Temple-Inland did not maintain a containerboard price list; [REDACTED]

Ex. 10

(Temple-Inland 30(b)(6) (Baker) Tr.) at 27-29, 65. Nor were there [REDACTED]

[REDACTED] *Id.* at 37.

44. During the Class Period, Temple-Inland had a formal, written containerboard sales contract in effect with only one containerboard customer: [REDACTED] x. Ex. 81 (Temple-Inland 01556298-302) [REDACTED] Linerboard Purchase & Supply Agreement, effective September 15, 2003); Ex. 82 (Temple-Inland 00642377-80) at 380 ([REDACTED] Second Amendment to Linerboard Purchase & Supply Agreement, effective September 28, 2005, and attaching previously executed First Amendment effective March 25, 2004); Ex. 83 (Temple-Inland 00642363-67) ([REDACTED] Linerboard Purchase & Supply Agreement, executed May 22, 2008 and effective April 1, 2008); Ex. 84 (Temple-Inland 00642181-86) ([REDACTED] Linerboard Agreement, executed February 15, 2010 and effective October 1, 2009); Ex. 85 (Hoaglund Tr.) at 37-38 [REDACTED] [REDACTED]).

45. Temple-Inland traded containerboard with Defendants and non-defendant producers to [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED] Ex. 10 (Temple-Inland 30(b)(6) (Baker) Tr.)  
at 46-51, 56-64, 69-71. Trades [REDACTED] were [REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED] *Id.* at 59-60. *See also id.* at 63.

46. Temple-Inland traded more containerboard with non-defendant producers than with Defendants during the Class Period:

<b>Table 11: TEMPLE-INLAND TRADES (2004 – 2010)</b>			
<b>Year</b>	<b>Total Tons Traded or Planned for Trade</b>	<b>Trades with Defendants</b>	<b>Trades with Non-Defendants</b>
2004			
2005			
2006			
2007			
2008			
2009			
2010			

Ex. 86 (Temple-Inland 00447388) (2004 Trade Variance Rep. (Jan.–Sept. 2004), Tab: Summary);  
 Ex. 87 (Temple-Inland 00141380) (2005 Trade Variance Rep. (Jan.–Aug. 2005), Tab: Summary);  
 Ex. 88 (Temple-Inland 00141382) (2006 Trade Variance Rep. (Jan.–Sept. 2006), Tab: Summary);  
 Ex. 89 (Temple-Inland 00141384) (2007 Trade Variance Rep. (Jan.–Aug. 2007), Tab: Summary);  
 Ex. 90 (Temple-Inland 00141385) (2008 Trade Variance Rep. (Jan.–Sept. 2008), Tab: Summary);  
 Ex. 91 (Temple-Inland 00141387) (2009 Trade Variance Rep. (Jan.–Sept. 2009), Tab: 2009 Summary); Ex. 92 (Temple-Inland 00141219) (Trade Variance and Re-Forecast Rep. (April 2010–Year-End 2010), Tab: 2010 Trade and Purchase Plan).

47. During the Class Period, competition from Defendants and other containerboard manufacturers led Temple-Inland to make price concessions [REDACTED]  
 [REDACTED]. *E.g.*, Ex. 93 (IP1780212-15) at 214 ([REDACTED]  
 [REDACTED]); Ex. 94 (IP0349385)  
 ([REDACTED]  
 [REDACTED]  
 [REDACTED]); Ex. 95 (GP-KLEEN00629727-30) at 727-28 ([REDACTED]  
 [REDACTED]  
 [REDACTED]); Ex. 96 (SSCC 00210533) ([REDACTED]

[REDACTED]

[REDACTED]; Ex. 97 (GP-KLEEN00628854-57) at 854 ([REDACTED])

[REDACTED]; Ex. 98 (WY0208170-71) at 170 ([REDACTED])

[REDACTED]

[REDACTED]

[REDACTED]). *See also* Ex. 99 (GP-KLEEN00673043-45); Ex. 100 (WY0173500-25) at 514; Ex. 101 (IP0349936-38); Ex. 102 (Wilde Ex. 384 (DBSI 00004011-12)) (also reflecting price competition) *and* Ex. 103 (Temple-Inland 00436748-58); Ex. 104 (Temple-Inland 00510465-67); Ex. 105 (Temple-Inland 00438567-69); Ex. 106 (Temple-Inland 01660877-80); Ex. 107 (Temple-Inland 00433846-47) (Monthly Containerboard Market Reports and Price Deviation Requests reflecting price concession/competitive pricing).

## 2. Corrugated Boxes

48. Temple-Inland's box pricing varied by customer because [REDACTED]

[REDACTED] Ex. 10 (Temple-Inland 30(b)(6) (Baker) Tr.) at 104-06. Pulp & Paper Week ("PPW") and [REDACTED]

[REDACTED]

[REDACTED] *Id.* at 107-09.

49. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. Ex. 108 (Temple-Inland 00328037).

50. During the Class Period, Temple-Inland bid against Defendants and other box manufacturers for business. *E.g.*, Ex. 109 (Temple-Inland 00352927-30); Ex. 110 (Temple-Inland 00329219-21); Ex. 111 (Temple-Inland 00170308).

51. During the Class Period, Temple-Inland made price concessions [REDACTED]. *E.g.*, Ex. 112 (WY0070137-62) at 147 ([REDACTED]); Ex. 113 (WY0156019) ([REDACTED]); Ex. 114 (WY0043239-82) at 243 ([REDACTED]); Ex. 115 (GP-KLEEN01435557) ([REDACTED]); Ex. 116 (SSCC 00336900-902) at 900 ([REDACTED]); Ex. 117 (SSCC 00341517-18) at 517 ([REDACTED]); Ex. 118 (IP1012825 (Tab: Mkt-Competition)) ([REDACTED]); Ex. 119 (PCOA000049099) ([REDACTED]); Ex. 120 (PCOA000552500) ([REDACTED])

[REDACTED]). *See also* Ex. 121 (GP-KLEEN01438818); Ex. 122 (PCOA000048899); Ex. 123 (PCOA000050814-15); Ex. 124 (SSCC 00454439); Ex. 125 (WY0164981-5006) at 4990; Ex. 126 (WY0210311); Ex. 127 (WY0076364-89) at 386-87; Ex. 128 (WY0077011-30) at 011; Ex. 129 (WY0207167-89) at 169; Ex. 130 (SSCC 00337048-49); Ex. 131 (SSCC 00341271-72); Ex. 132 (WY0073225); Ex. 133 (WY0066354) at Slide 9; Ex. 134 (IP587599); Ex. 135 (GP-KLEEN00670968-69); Ex. 136 (IP011434-37); Ex. 137 (GP-KLEEN00956919-20); Ex. 138 (IP1225359); Ex. 139 (IP1532773-74); Ex. 140 (PCOA000594543); Ex. 141 (SSCC 00000036-100) at 098; Ex. 142 (SSCC 00831612-707) at 660; Ex. 143 (SSCC 00000905-990) at 971; Ex. 144 (SSCC 00148282-85) at 83; Ex. 145 (SSCC 00148398-99); Ex. 146 (SSCC 00336215-17); Ex. 147 (WY0079526-28); Ex. 148 (WY0070631-54) at 631; Ex. 149 (WY0156843); Ex. 150 (WY0153583); Ex. 151 (WY0148297); Ex. 152 (SSCC 00370714-15); Ex. 153 (SSCC 00446691-92); Ex. 154 (WY0148300); Ex. 155 (WY0146505); Ex. 156 (WY0142026); Ex. 157 (WY0142149); Ex. 158 (WY0085860-70) at 865; Ex. 159 (WY0170969-1015) at 1012; Ex. 160 (WY0044127-51) at 145; Ex. 161 (WY0086329-76) at 369-70; Ex. 162 (WY0209040-82) at 051, 058; Ex. 163 (WY0321458-93) at 459, 462, 474-75; Ex. 164 (WY0208390-91); Ex. 165 (WY0162568-84) at 575 (all reflecting price competition).

52. [REDACTED]

[REDACTED]  
 [REDACTED]  
 [REDACTED] Ex. 166 (Wilde Ex. 20 (DBSI 00001533-35)) at 533. [REDACTED]

[REDACTED] *Id.* See also Ex. 167 (Wilde Ex. 23 (DBSI 00004379-81)) at 379 ([REDACTED]); Ex. 168 (Wilde Ex. 385 (DBSI 00004722-23)) at 722 ([REDACTED]); Ex. 169 (Wilde Ex. 22 (DBSI 00000037-39)) at 037 ([REDACTED]); Ex. 170 (Wilde Ex. 380 (DBSI 00004084-85)); Ex. 171 (Wilde Ex. 60 (DBSI 00004428-31)); Ex. 172 (Wilde Ex. 21 (DBSI 00004481-84)); Ex. 173 (Wilde Ex. 19 (DBSI 00004184-87)); Ex. 174 (Wilde Ex. 383 (DBSI 00004319-20)); Ex. 175 (Wilde Ex. 387 (DBSI 00006529-32)); Ex. 176 (Wilde Ex. 24); Ex. 177 (DBSI 00004077-78); Ex. 178 (DBSI 00004312-14); Ex. 179 (DBSI 00004652-54); Ex. 180 (DBSI 00004798-800) (similar reports of Temple-Inland price cutting).

**E. NO EVIDENCE OF A CONSPIRACY INVOLVING TEMPLE-INLAND**

**1. No Direct Evidence**

53. Each Temple-Inland witness who was asked under oath denied the existence of an agreement or understanding with any competitor to fix prices or restrict output of Containerboard Products. Ex. 181 (Lind Tr.) at 224-26; Ex. 182 (Ali Tr.) at 273-74; Ex. 183 (Recht Tr.) at 139-42; Ex. 85 (Hoaglund Tr.) at 260-63; Ex. 184 (Mathis Tr.) at 286-90; Ex. 35 (Norton Tr.) at 335-38; Ex. 185 (Vesci Tr.) at 298-301; Ex. 12 (Maley Tr.) at 274-77; Ex. 14 (Baker (Ind.) Tr.) at 286-90; Ex. 42 (Simons Tr.) at 260-72.

**2. No Indirect Evidence**

54. Temple-Inland representatives participated in some industry trade association meetings, [REDACTED]

[REDACTED]. Ex. 10 (Temple-Inland 30(b)(6) (Baker Tr.) at 92-94; Ex. 14 (Baker (Ind.) Tr.) at 35-39; Ex. 181 (Lind Tr.) at 166-68; Ex. 11 (Zimbelman Tr.) at 86-89.

55. Temple-Inland's CEO Doyle Simons sat on the [REDACTED] Board and served as the chairman of the [REDACTED] political action committee ("PAC"), and [REDACTED]. Ex. 42 (Simons Tr.) at 48-50, 52-54, 71-73, 174-75.

56. During the Class Period, Temple-Inland did not engage [REDACTED] or other business management consultants. Ex. 181 (Lind Tr.) at 227 [REDACTED]; Ex. 183 (Recht Tr.) at 150-52.

57. As a publicly traded company, Temple-Inland had contacts and communications with investment analysts during the Class Period. Ex. 42 (Simons Tr.) at 32-36; Ex. 184 (Mathis Tr.) at 18-24. Analysts were [REDACTED]. Ex. 42 (Simons Tr.) at 35-36; *see also* Ex. 184 (Mathis Tr.) at 20. However, [REDACTED]. Ex. 184 (Mathis Tr.) at 47, 280-82.

58. Mark Wilde of Deutsche Bank was one of several investment analysts that covered Temple-Inland. *Id.* at 18-24, 277-78. [REDACTED]. *Id.* at 47, 114-16, 275-76, 280-82; Ex. 12 (Maley Tr.) at 34-38.

59. Between August 2005 and March 2008, Temple-Inland [REDACTED]. *See* Ex. 186 (Temple-Inland 00054765-806); Ex. 187 (Temple-Inland 00054807-21); Ex. 188 (Temple-Inland 00054822-29); Ex. 189 (Temple-Inland 00054830-37); Ex. 190 (Temple-Inland 00054838-47); Ex. 191 (Temple-Inland 00054848-57); Ex. 192

(Temple-Inland 00054858-67); Ex. 193 (Temple-Inland 00054868-77); Ex. 194 (Temple-Inland 00054883-90). [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. *Id.*

Dated: January 9, 2017

Respectfully submitted,

TEMPLE-INLAND INC.

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**CERTIFICATE OF SERVICE**

The undersigned certifies that on January 23, 2017, a true and correct copy of the foregoing **DEFENDANT TEMPLE-INLAND INC.'S RULE 56.1 STATEMENT OF MATERIAL FACTS IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT (PUBLIC VERSION—REDACTED)** was electronically filed with the Clerk of the Court for the United States District Court for the Northern District of Illinois using the Court's CM/ECF system, which will send a notice of electronic filing to all counsel of record. By agreement of the parties, counsel of record will be served via File Transfer Protocol.

/s/ Andrew S. Marovitz

One of the Attorneys for Temple-Inland Inc.